

**MEMO ENDORSED**

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August 21, 2008

**VIA HAND DELIVERY**

The Honorable Lewis A. Kaplan  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Orbit One Communications, Inc., et al. v. Numerex Corp.*,  
08 Civ. 905 (LAK)

*Numerex Corp. v. Scott Rosenzweig and Gary Naden*,  
08 Civ. 6233 (LAK):

Dear Judge Kaplan:

This firm represents Numerex Corporation in the two above-referenced actions, which have been consolidated for all purposes pursuant to Federal Rule of Civil Procedure 42(a).

Defendants Rosenzweig and Naden were served with a Complaint on July 16, 2008, by delivery of the Complaint to their counsel. Counsel accepted service, conditioned on consent by Numerex to a 10-day enlargement for their time to respond to the Complaint. Numerex consented to that request. These agreements are all documented in the Declaration of Service filed August 1, 2008 (courtesy copy enclosed).

Had Rosenzweig and Naden sought a 10-day enlargement on consent, and had the Court granted it, their answer would have been due on August 15, 2008. However, defendants have unilaterally granted themselves an extension of time beyond the time provided by the Federal Rules and beyond the time consented to. They have now asked the Court for yet more time.

Ordinarily, we are quick to consent to requests for professional courtesy. Unfortunately, in this case, at the very same time that defendants' counsel was seeking the professional courtesy of further adjournments beyond those already agreed to, he was making personal attacks on the undersigned, impugning the integrity of the undersigned, personalizing this business dispute, and even using profanity in his dealings with the

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undersigned. Given this discourteous conduct, we are not prepared to consent to the further adjournment requested.

The Court has discretion to grant enlargements of time for good cause. Rosenzweig and Naden have not offered good cause for their default or for their need for nearly two months to respond to the Complaint.

Respectfully submitted,

  
Kent A. Yalowitz

cc: John McFerrin-Clancy, Esq.  
*Counsel for Orbit One Communications, Inc.  
and David Ronsen*

Howard J. Kaplan, Esq.  
*Counsel for Scott Rosenzweig and Gary Naden*

  
LEWIS A. KAPLAN, USDJ

8/21/08